IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Crl.MC.No. 2015 of 2007()

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CMP.2907/2007 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOLLAM

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PETITIONER:

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M/S.MUTHOOT LEASING AND FINANCE LTD.,
REPRESENTED BY MR.WILSON GEORGE, MANAGER,
AGED 45, S/O.MR.LATE E.V.GEORGE,
RESIDING AT ELLIKAL HOUSE, PALLIPORT (P.O),
ERNAKULAM.

BY ADV. SRI.C.S.MANILAL

RESPONDENTS: STATE AND PETITIONER(ACCUSED):

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. GIREESH KUMAR (DEAD), S/O.RAJENDRA
PILLAI, ANNA VEEDU, MULAVANA, KUNDARA,
KOLLAM, REPRESENTED BY HIS WIFE ANILA,
ANNA VEEDU, MULAVANA, KUNDARA, KOLLAM.

BY ADV. SRI.DILEEP P.PILLAI
PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**Crl.M.C.No.2015 Of 2007**

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Dated this the 10th day of July, 2007

**ORDER**

The petitioner is aggrieved by Annexure A4 order. The petitioner, as well as the 2nd respondent herein had applied for release of a vehicle which was seized by the Criminal Court. Considering the claims, the learned Magistrate had directed that the vehicle be released to the 2nd respondent. The 2nd respondent is the widow of the registered owner of the vehicle and she has stepped into his shoes after his death. There was a hire purchase agreement in respect of the vehicle, and the petitioner herein had allegedly advanced the amount. The vehicle was seized by the Police in connection with another crime and the petitioner was not involved in the said crime at all. When both sides applied for release of the vehicle, the learned Magistrate subject to appropriate conditions directed that the vehicle be released to the 2nd respondent.

2. The petitioner contends that the petitioner has the right to seize the vehicle for breach of the terms of the hire purchase agreement. The learned Magistrate should have considered the claim of the petitioner and directed release of the vehicle to the petitioner. This in short is the contention.

3. Admittedly the parties were already before the District Court, Ernakulam. By Annexure III order, the 2nd respondent was directed not to hand over the possession of the vehicle to anyone except as directed by the Criminal Court. In these circumstances, I am of the opinion that the petitioner must seek appropriate further directions from the Civil Court (District Judge, Ernakulam) who has issued the order (Annexure III). I am satisfied that the impugned order warrants no interference. Needless to say the petitioner has the liberty to proceed against the vehicle, in exercise of his rights as a person who has entered into hire purchase agreement with the registered owner and seek further directions, before the learned District Judge. This Crl.M.C. is dismissed with the above observations.

**(R.BASANT, JUDGE)**

sj